

Signature of Person Mailing Paper

The items listed as missing are attached, although some were included in the original application papers (they are attached again so that there will be no question that this reply is complete).

1) The original transmittal papers included a fee calculation sheet with authorization to charge Lyon & Lyon's Deposit account 12-2475 for the fees due. A copy of this document as originally submitted is enclosed.

2) The original transmittal papers checked the box "Applicant claims small entity status". Such status was requested and proper, and the fees were accordingly reduced by 1/2 on the fee calculation sheet. Applicant believes this is a proper method for claiming small entity status, as set forth in 37 CFR 1.27(c)(1) and (3). A copy of this document as originally submitted is enclosed.

3) A copy of the IPE Report is enclosed.

4) Copies of the references cited in the ISR are enclosed.

5) The original application papers included a copy of the International Application (although one was not required since the PCT International Application was filled with RO/US, see 37 CFR 1.495(b)(1). A copy of this document as originally submitted is enclosed.

6) A copy of the ISR is enclosed.

7) Applicant believes the original application papers were referred to in item 2 were sufficient for the Small Entity Statement under 37 CFR 1.27(c)(2)(i) and 37 CFR 1.27(c)(3).

8) A declaration of the inventor is enclosed.

9) A Change in Correspondence Address Form is enclosed.

10) A Copy of a Power of Attorney is enclosed.

Applicant has, in good faith, endeavored to fully and completely reply to the above-identified Notice. If the Office has any questions regarding the notice, the Office is urged to contact the undersigned by phone at (858) 552-8400 ext. 5536. Applicant believes this Reply is timely and that no extension of time is needed. However, if an extension of time is needed, Applicant respectfully petitions for an extension of time under 37 CFR 1.136.

The Office is hereby authorized to charge Lyon & Lyon's deposit account no. 12-2475 for the fee due under 37 CFR 1.492(e) for the late submission of the declaration (item 8) and any other fees due with the filing of these papers.

**Applicant Further Notes:**

The subject application was re-filled on March 1, 2002 because no postcard or filing receipt was received by that date and it was advised by the Commissioner to wait until such date to re-submit papers for which no communication was received from the USPTO, where such papers were filled during the anthrax related processing of mail destined for the USPTO.

Applicant's representative unsuccessfully tried to contact Mr. Lamont Hunter, whose name appears on the subject notification regarding the purportedly missing papers and the re-submitted application papers (with a petition to accord a filing date under 37 CFR 1.10(e)), from the date of receipt of the Notice until April 9, 2002.

On April 9, 2002, Applicant reached Mr. Daniel J. Stemmer at the USPTO and explained the current situation concerning the re-submission of the application papers and the items purportedly missing. Mr. Stemmer indicated that he would work to match the re-submitted papers with the originally submitted papers.

A **Preliminary Amendment** and an **Information Disclosure Statement** were filled with the re-submitted papers. If the Office does not have these papers, then the Office is urged to contact Applicant's representative (below), who will re-submit these documents.

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Lyon & Lyon's Deposit Account No. 12-2475.

Dated: 4/11/02  
633 W. Fifth Street, Suite 4700  
Los Angeles, CA 90071  
Phone: 858.552.8400  
Fax: 213.955.0440

**Customer No. 22249**

Respectfully submitted,  
LYON & LYON LLP

By: 

Jason W. Wolff  
Reg. No. 43,281



UNITED STATES PATENT AND TRADEMARK OFFICE

 Commissioner for Patents, Box PCT  
 United States Patent and Trademark Office  
 Washington, D.C. 20231  
 www.uspto.gov

|                             |                       |                  |
|-----------------------------|-----------------------|------------------|
| U.S. APPLICATION NUMBER NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
| 10/030,318                  |                       | 268/207 US       |

|                               |               |
|-------------------------------|---------------|
| INTERNATIONAL APPLICATION NO. |               |
| PCT/US00/10415                |               |
| LA. FILING DATE               | PRIORITY DATE |
| 04/18/2000                    |               |

 LYON & LYON LLP  
 4225 EXECUTIVE SQ. STG 800  
 LA JOLLA, CA 92037-9150

CONFIRMATION NO. 5771

371 FORMALITIES LETTER



\*OC000000007612363\*

Date Mailed: 03/12/2002

*missing parts 5/12/02*

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Indication of Small Entity Status
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Small Entity Statement

RECEIVED

MAR 20 2002

U.S. PROSECUTION

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Additionally the following defects have been observed:

- Additional claim fees of \$140 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are

 RECEIVED BY  
 LYON & LYON  
 SAN JOSE ON

MAR 28 2002

due.

## SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$140** for a Small Entity:

- Total additional claim fee(s) for this application is **\$140**
  - **\$140** for multiple dependant claims surcharge.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 305-3686

## PART 1 - ATTORNEY/APPLICANT COPY

| U.S. APPLICATION NUMBER NO. | INTERNATIONAL APPLICATION NO. | ATTY. DOCKET NO. |
|-----------------------------|-------------------------------|------------------|
| 10/030,318                  | PCT/US00/10415                | 268/207 US       |

FORM PCT/DO/EO/905 (371 Formalities Notice)